

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS (Eastern Division)**

DIRECTV, Inc.

Plaintiff

vs.

David Annand

Defendant

) Case No.: **03cv12325 MLW**

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**AFFIDAVIT OF ATTORNEY FOR
PLAINTIFF'S REQUEST FOR DEFAULT**

Now comes John M. McLaughlin, Attorney for the Plaintiff in the above-entitled action,
and, on oath, states the following:

1. On November 20, 2003, the Plaintiff filed a Complaint against the Defendant,
David Annand, in United States District Court, alleging violations of 47 U.S.C. §
605 and violations of 18 U.S.C § 2511.
2. On February 10, 2004, the said Defendant was served **in hand**, by a person who is
not a party to this action (see copy of Return of Service marked **Exhibit A**,
attached hereto, and made a part hereof).
3. Pursuant to the provisions of Rule 12 of the Federal Rules of Civil Procedure, the
Defendant had twenty days after being served with the summons and complaint
within which to serve an answer to Plaintiff's Complaint.
4. The original Complaint in this action was amended by the filing of an Amended
Complaint on October 5, 2004.
5. The original Complaint had been amended by withdrawing certain counts and by
limiting the Plaintiff's rights upon default.

6. Specifically the Amended Complaint contained a modified remedies provision which now provides that in the event of a default DIRECTV will seek:

“...an award of statutory damages of *up to \$10,000* for violations of 47 U.S.C. § 605(a), a further award of DIRECTV’s reasonable attorneys’ fees in the amount of \$850.00 and costs” (*emphasis added*)
7. After the filing of the Amended Complaint a copy thereof was served upon the Defendant pursuant to Rule 5 of the Federal Rules of Civil Procedure by mailing a copy to the Defendant at his last known address on October 5, 2004.
8. The mailing to the Defendant was never returned to my office and the time for responsive pleading has long since passed.
9. To date, the Defendant has failed and neglected to file an answer to Plaintiff's Complaint.
10. I have filed herewith a Request for Entry of Default, seeking that a Notice of Default be entered by this Court.
11. I have also filed herewith Form of Order entitled Notice of Default, for the Court's use if it shall determine that the said Defendant is in default.

Subscribed and sworn to, under the pains and penalties of perjury.

Respectfully Submitted for the Plaintiff,
DIRECTV, INC.
By Its Attorney,

1/25/05
Date

/s/ John M. McLaughlin
John M. McLaughlin (BBO: 556328)
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